

## **REMARKS**

Applicants have reviewed and considered the final Office Action mailed on September 1, 2009 (the "Office Action"), and the references cited in the Office Action. Claims 1-19 and 21-30 are pending in the present application and have been rejected. None of the claims have been further amended. Reconsideration and allowance of the claims is respectfully requested in view of the following arguments.

### **Examiner Interview Summary**

Applicants thank the Examiner for the interview held on October 1, 2009 with Gerald T. Welch and Robert C. Hilton during which we discussed the patentability of Claims 10 and 13 which were rejected under 35 U.S.C. 102(b) as being anticipated by Solovev. The Examiner agreed that Solovev does not disclose, teach, or suggest an outer surface that has pores of a first average size and an inner body that has pores of a second average size. The Examiner also agreed that Solovev does not teach or suggest that the second average size is greater than the first average size. The Examiner agreed to withdraw the rejection of these claims under U.S.C. § 102.

### **Claim Rejections - 35 U.S.C. § 102; Claims 10 and 13**

Claims 10 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by V.A. Solovev et al., Guidelines, The Method and Treatment of Upper Gastrointestinal Tract ("Solovev") as maintained in the Office Action. This rejection is respectfully traversed.

The Examiner referred to the following portions of the Solovev reference as teaching the features of the invention as recited in claim 10:

"By its structure, polyurethane foam is an elastic polymer with a multitude of capillaries, each of which acts as a drainage. . . . Polyurethane foam's large surface area, being in contact with the entire wound surface, . . . simultaneously solves several problems: 1) creates a suction effect across the entire wound surface; . . . 3) by applying BF-2 adhesive to the upper wall of polyurethane foam [so that] the purulent cavity is nearly completely sealed, which helps to achieve a better vacuum effect of the entire drainage system; . . ." (Solovev; page 4, par. 5)

The Examiner interprets this portion of the reference as disclosing an adhesive that "necessarily refer[s] to the wall(s) contacting the wound cavity walls to seal the cavity" and then concludes that the "adhesive thus forms an outer surface . . ." The Examiner has no basis for her interpretation because the Solovev reference simply does not disclose anywhere that the adhesive contacts the wound or is intended to contact the wound. Therefore, the Examiner erroneously concludes that the adhesive forms the outer surface because the outer surface must be "adapted to contact the wound" as recited in Claim 10.

The Examiner also erroneously concludes that the adhesive "has a first porosity that would necessarily be less than the porosity of the foam." The Solovev reference nowhere discloses or describes the adhesive as having any porosity let alone one that would be less than the porosity of the polyurethane foam. The wound dressing described in the Solovev reference discloses a polyurethane foam without ever discussing the porosity of the foam let alone all the features recited in Claim 10, i.e.,

" . . . a porous body . . . [1] having an outer surface  
and an inner body,  
[2] the outer surface . . . having pores therein  
of a first average size, [and]  
[3] the inner body having pores of a second  
average size,  
[4] wherein the second average size is greater  
than the first average size; . . ."

The Solovev reference does not disclose any details about porosity and certainly does not teach or suggest a porous body that comprises an inner body having pores of one average size that is greater than the average pore size of the outer surface. Therefore, Claim 10 is not anticipated by or obvious over the Solovev reference and is allowable. Because Claim 13 is dependent from Claim 10, Claim 13 is also allowable. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 102 be withdrawn.

**Claims Rejections - 35 U.S.C. §§ 102 and 103; Claim 11**

Claim 11 is rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over the Solovev reference. This rejection is respectfully traversed.

Claim 11 is not anticipated by or obvious over the Solovev reference and is allowable by virtue of its dependency on Claim 10 for the same reasons set forth above.

**Claim Rejections - 35 U.S.C. § 103 - Claims 1-9, 12, 14-19, 21-30**

Claims 1-4, 7-9, 12, 14, 15, 17, 21-24, and 28-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Solovev in view of Bowen (U.S. Patent No. 5,827,246). Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Solovev in view of Bowen as applied to Claim 8, and further in view of Coffee (U.S. Patent No. 6,252,129). Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Solovev in view of Coffee (U.S. Patent No. 6,252,129). Claims 6, 26, and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Solovev in view of Bowen, as applied to Claims 1 and 21, and further in view of Podell et al. (U.S. Patent No. 5,419,913). Claims 5, 16, and 25 are rejected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These rejections are respectfully traversed.

As explained above, Solovev does not teach or suggest a porous body (1) having an outer surface and an inner body, (2) the outer surface having pores therein of a first average size, (3) the inner body having pores of a second average size, and (4) wherein the second average size is greater than the first average size. The additional references cited by the Examiner are not cited for these features, nor do these references teach or suggest these particular features. Thus, Claims 1 and 21 are not obvious and are allowable. Claims 2-9, 12, 14-19, and 22-30 depend either directly or indirectly from Claims 1 and 21 and, therefore, are also allowable by virtue of their dependency on Claims 1 and 21. Applicants respectfully request that the rejections under 35 U.S.C. § 103 be withdrawn.

**CONCLUSION**

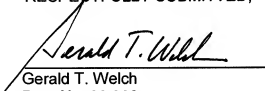
Applicants respectfully submit that the pending claims are in condition for full allowance and the same is respectfully requested.

To provide for the possibility that Applicants have overlooked the need for a fee, including a fee for an extension of time under 37 C.F.R. 1.136(a), the Commissioner is hereby authorized to charge any underpayment of fees or credit any overpayment to Deposit Account No. 19-3140 of Sonnenschein Nath & Rosenthal LLP.

The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: 12/1/2009

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, appearing to read "Gerald T. Welch", is written over a horizontal line.

Gerald T. Welch  
Reg. No. 30,332  
Sonnenschein, Nath & Rosenthal  
2000 McKinney Avenue, Suite 1900  
Dallas, Texas 75201  
Phone: (214) 259-0900  
Fax: (214) 259-0910